

REMARKS

Claims 1, 2, 7–12, 15, 16, 18, and 22–24 are pending in this application. Non-elected claims 15, 16, 18, and 22 are withdrawn from consideration by the Examiner. By this Amendment, claims 1, 2, 7, 16, 18, and 22–24 are amended, and claims 3 and 4 are canceled. Support for the amendments to the claims may be found, for example, in the specification and claims as originally filed. No new matter is added.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments:

(a) place the application in condition for allowance, for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration, as the amendments amplify issues previously discussed throughout prosecution; (c) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Personal Interview

The courtesies extended to Applicants' representative by Examiners Thomas and Strzelecka at the interview held May 12, 2009 are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

II. Written Description Rejection under 35 U.S.C. §112, First Paragraph

The Office Action rejects claims 1–4, 7–12, 23, and 24 under the written description requirement of 35 U.S.C. §112, first paragraph. By this Amendment, claims 3 and 4 are canceled, rendering the rejection moot as to those claims. Also, claims 1, 2, 23, and 24 are

amended to delete the recitation of percent homology. Additionally, claim 7 is amended as follows: "at ~~least 8~~least 15 consecutive nucleotides of the full-length sequence set forth in SEQ ID NO:6 or SEQ ID NO:7, or at ~~least 8~~least 15 consecutive nucleotides of the full-length complementary sequences thereof."

In view of these amendments, Applicants respectfully submit that the rejections are moot. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejections Under 35 U.S.C. §102

The Office Action rejects claims 1, 3, 4, and 23 under 35 U.S.C. §102(e) over U.S. Patent No. 6,583,275 to Doucette-Stamm et al. ("Doucette-Stamm I"); rejects claim 4 under 35 U.S.C. §102(e) over U.S. Patent No. 6,617,156 to Doucette-Stamm et al. ("Doucette-Stamm II"); rejects claim 4 under 35 U.S.C. §102(b) over U.S. Patent Application Publication No. 2002/0061569 to Haselbeck et al. ("Haselbeck"); and rejects claim 4 over U.S. Patent No. 6,420,135 to Kunsch et al. ("Kunsch").

Applicants recently submit that the amendments set forth above render these rejections moot. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

IV. References Listed on PTO-892

U.S. 6,583,275 and U.S. 6,617,156, applied in some of the rejections addressed above, are not listed on the PTO-892 attached with the Office Action or in any previous PTO-892. Applicants respectfully request that these references be listed on a PTO-892 included with the next Office Action.

V. Rejoinder

Applicants also respectfully request rejoinder of non-elected process claims 15, 16, 18, and 22. Because the product claims are believed to be allowable for at least the reasons presented above, Applicants respectfully request withdrawal of the Restriction Requirement and rejoinder of claims 15, 16, 18, and 22.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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